

JUDGE DECKER

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FILED

OCT 18 1973

ALLIED LEISURE INDUSTRIES, INC.,  
a corporation

H. STUART CUNNINGHAM  
At \_\_\_\_\_ o'clock \_\_\_\_\_  
CLERK

Plaintiff,

730

2682

Civil Action No.

v.

MIDWAY MANUFACTURING CO.,  
a corporation

Defendant.

C O M P L A I N T

ALLIED LEISURE INDUSTRIES, INC. (hereinafter referred to as "Plaintiff"), for its complaint against MIDWAY MANUFACTURING CO. (hereinafter referred to as "Defendant"), alleges:

1. This is an action for infringement of United States Copyright and unfair competition, and arises under the copyright laws of the United States, more particularly 17 USC Sec. 101. This Court has jurisdiction thereof under 28 USC Sec. 1338. Venue is predicated upon 28 USC Sec. 1400(a).

Plaintiff ALLIED LEISURE INDUSTRIES, INC. is a Florida corporation having a place of business at 1780 W. Fourth Avenue, Hialeah, Florida 33012. Defendant MIDWAY MANUFACTURING CO. is a corporation having a place of business at 3750 River Road, Schiller Park, Illinois, and is a wholly-owned subsidiary of Bally Manufacturing Corporation, a corporation having a place of business at 2640 West Belmont Avenue, Chicago, Illinois.

2. Prior to May 1973, Universal Research Laboratories, Inc. an Illinois corporation having a place of business at 2501 United Lane, Elk Grove Village, Illinois, created a printed circuit drawing, entitled "Part No. AL-5500. This printed circuit contains a large amount of material wholly original with Universal Research Laboratories, Inc. and is copyrightable subject matter under the laws of the United States.

3. Universal Research Laboratories, Inc. complied in all respects with the Copyright Act of 1947 and all other laws governing copyright, and secured the exclusive rights and privileges in and to the copyright of said printed circuit drawing, and received from the Register of Copyrights a Certificate of Registration, identified by Registration No. IP 11237, in Class I. A copy of the registration is attached to this Complaint.

4. Said copyright and the registration therefor, No. IP 11237, have been assigned by Universal Research Laboratories, Inc. to Plaintiff, and Plaintiff is the sole proprietor of all right, title and interest in and to the copyright in said printed circuit drawing.

5. Since May 1973, the printed circuit has been manufactured by Universal Research Laboratories, Inc. for Plaintiff and all copies of it made by Plaintiff or under its authority or license have been printed and published in strict conformity with the provisions of the Copyright Act of 1947 and all other laws governing copyright.

6. Plaintiff's printed circuit drawing concerns a circuit for a four player tennis or ping pong game, which is played on a cathode ray tube. Universal Research Laboratories, Inc. and Plaintiff expended a large amount of time, effort and money in developing the printed circuit drawing which is the subject matter of the copyright in suit.

7. In an effort to determine copyright infringement as clearly as possible, the printed circuit drawing which is the subject matter of the copyright in suit was purposely made with several false lines. These lines are inactive and were only utilized to provide conclusive evidence as to copying of Plaintiff's printed circuit drawing by another.

8. Beginning in or about October 1973, Defendant infringed said copyright by publishing and placing upon the market a printed circuit entitled "Winner IV," PC 572-902. Said printed circuit of Defendant is copied from Plaintiff's copyrighted printed circuit, and contains all of the same lines as Plaintiff's printed circuit, including the false lines.

9. A photostat of the top side of Plaintiff's copyrighted printed circuit drawing is attached hereto as Exhibit 1 and a photostat of the bottom side of Plaintiff's copyrighted printed circuit drawing is attached hereto as Exhibit 2. A photostat of the bottom side of Defendant's infringing printed circuit is attached hereto as Exhibit 3.

10. Prior to Defendant's infringement of Plaintiff's copyright, both Universal Research Laboratories, Inc. and Plaintiff received information that Defendant was intending to produce a circuit that would have the same function as Plaintiff's circuit, that is to provide a four person ping pong or tennis game to be played on a cathode ray tube. Universal Research Laboratories, Inc. and Plaintiff advised Henry Ross, an officer of Defendant, that Plaintiff's printed circuit drawing was copyrighted and in response, Henry Ross advised that Defendant intended to produce its own circuit using its own original

artwork. Such statement by Henry Ross was false, and was made at a time that Henry Ross knew that Defendant intended to willfully and recklessly copy Plaintiff's copyrighted printed circuit drawing.

11. Defendant willfully copied Plaintiff's copyrighted printed circuit drawing by obtaining an actual sample of Plaintiff's printed circuit and tracing the drawing thereon. By utilizing this technique, Defendant obviated the need for circuit development, circuit design, circuit testing, circuit layout generation, and the corrective steps that are necessary in developing a printed circuit drawing.

12. Plaintiff expended large amounts of money and Universal Research Laboratories, Inc. expended approximately 1,500 man hours developing Plaintiff's copyrighted printed circuit drawing. By pirating Plaintiff's copyrighted printed circuit drawing, Defendant has been able to rapidly enter the marketplace without any of the afore-said developmental costs and has been able to severely undercut Plaintiff's price. Defendant's lower prices resulting from its willful copyright infringement tends to dilute the existing market in the game in which the printed circuit drawing is utilized, and Plaintiff is losing and will continue to lose customers and sales as a result of Defendant's unlawful price cutting.

13. Once Defendant mounts its infringing printed circuit in a game unit, the game unit is sold to locations throughout the world, making it difficult, if not impossible, to trace the infringing printed circuit. Defendant's price cutting as a result of its unlawful and willful copyright infringement tends to destroy Plaintiff's market position, in that once lower prices are quoted by Defendant to Plaintiff's customers, Plaintiff's customers will expect Plaintiff to lower its price to an amount which is unreasonable in view of the costs of development of Plaintiff's copyrighted printed circuit drawing.

14. Since some time in or about October 1973, Defendant has been publishing, selling and otherwise marketing games including the printed circuit drawing entitled "Winner IV," No. PC 572-902, and has thereby been engaging in unfair trade practices and unfair competition against Plaintiff to Plaintiff's irreparable damage.

15. The willful infringement for profit of a copyright is a misdemeanor under 17 U.S.C. Sec. 104. Defendant has violated 17 U.S.C. Sec. 104.

WHEREFORE, Plaintiff demands:

A. That Defendant, its agents, employees and all who may now or hereafter be privy or in concert with them,

be enjoined during the pendency of this action and permanently from infringing said copyright of said Plaintiff in any manner, and from publishing, selling, marketing or otherwise disposing of its four player ping pong or tennis printed circuit presently entitled "Winner IV", No. PC 572-902;

B. That Defendant be required to pay to Plaintiff such damages as Plaintiff has sustained in consequence of Defendant's willful infringement of said copyright and said unfair trade practices and unfair competition, and to account for:

(1) all gains, profits and advantages derived by Defendant by said unfair trade practices and unfair competition; and

(2) all gains, profits, and advantages derived by Defendant by its willful infringement of Plaintiff's copyright or such damages as to the Court shall appear proper within the provisions of the copyright statutes;

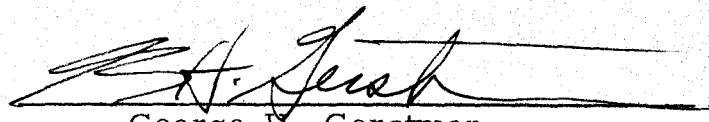
C. That defendant be required to pay to Plaintiff three times the amount of damages sustained by reason of Defendant's said willful infringement;

D. That Defendant be required to deliver up to be impounded during the pendency of this action, all of its printed circuit boards for a four player ping pong or tennis game, in its possession or under its control, and to deliver up for destruction all infringing copies and all plates, molds and other matter for making such infringing items;

E. That Defendant pay to Plaintiff the costs of this action and reasonable attorney's fees to be allowed to the Plaintiff by the Court.

F. That Plaintiff have such other and further relief as is just.

ALLIED LEISURE INDUSTRIES, INC.

  
George H. Gerstman  
Its Attorney

LETTVIN AND GERSTMAN  
135 S. La Salle Street  
Chicago, Illinois 60603  
(312) 641-3320



## Certificate

FORM 1

# Registration of a Claim to Copyright

## in a drawing or plastic work of a scientific or technical character

CLASS	REGISTRATION NO.
1	IP 11237
DO NOT WRITE HERE	

This is To Certify that the statements set forth on this certificate have been made a part of the records of the Copyright Office. In witness whereof the seal of the Copyright Office is hereto affixed.

*Abe A. Goldman*

ACTING

Register of Copyrights  
United States of America

NOT VALID WITHOUT  
COPYRIGHT OFFICE  
IMPRESSION SEAL

## 1. Copyright Claimant(s) and Address(es):

Name UNIVERSAL RESEARCH LABORATORIES, INC.

Address 2501 UNITED LANE ELK GROVE VILLAGE ILLINOIS 60007

Name \_\_\_\_\_

Address \_\_\_\_\_

2. Title: PRINTED CIRCUIT PART AL5500 TOP AND BOTTOM SIDES

(Title of the work)

3. Nature of Work: MECHANICAL DRAWING

(Characterize the general type of artistic or sculptural work involved, as, for example, mechanical drawing, scale model, etc.)

## 4. Optional Deposit:

Basis for claiming option:

☐ Monetary value (retail value per copy) \_\_\_\_\_ ☐ Weight (in pounds) \_\_\_\_\_  
☐ Size (give dimensions) \_\_\_\_\_ ☐ Fragility (give details) \_\_\_\_\_

## 5. Author (i.e., Artist):

Name WILLIAM E OLLIGES

(Give legal name followed by pseudonym if latter appears on the copies)

Citizenship U.S.A.

(Name of country)

Domiciled in U.S.A. Yes XX No \_\_\_\_\_ Address 1605 E. CENTRAL RD ARLINGTON HEIGHTS ILLINOIS

## 6. (a) Date of Publication:

MAY 1 1973  
 (Month) (Day) (Year)

## (b) Place of Publication:

ELK GROVE VILLAGE ILLINOIS U.S.A.

## (c) Manufacture Outside United States by Lithographic or Photoengraving Process:

NONE

(Name of country)

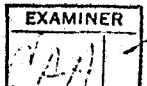
## 7. Previous Registration or Publication:

Was work previously registered? Yes \_\_\_\_\_ No XX Date of registration \_\_\_\_\_ Registration number \_\_\_\_\_

Was work previously published? Yes \_\_\_\_\_ No XX Date of publication \_\_\_\_\_ Registration number \_\_\_\_\_

Is there any substantial NEW MATTER in this version? Yes \_\_\_\_\_ No \_\_\_\_\_ If your answer is "Yes," give a brief general statement of the nature of the NEW MATTER in this version.

Complete all applicable spaces on next page



## 8. Deposit account:

CASH NO. 232121 (U)

## 9. Send correspondence to:

Name WILLIAM E. OLLIGESAddress UNIVERSAL RESEARCH LABORATORIES, INC  
2501 UNITED LANE ELK GROVE VILLAGE ILL 600

## 10. Send certificate to:

(Type or  
print  
name and  
address)

Name

Address

UNIVERSAL RESEARCH LABORATORIES, INC2501 UNITED LANE

(Number and street)

ELK GROVE VILLAGE ILLINOIS

(City)

(State)

60007

(ZIP Code)

## Information concerning copyright in drawings or plastic works of a scientific or technical character

**When to Use Form I.** Form I is appropriate for unpublished and published drawings or plastic works of a scientific or technical character.

**What Is a "Drawing or Plastic Work of a Scientific or Technical Character"?** This category (Class I) includes works which have been designed for a scientific or technical use and which contain copyrightable graphic, pictorial, or sculptural material. Examples are diagrams or models illustrating scientific or technical information in linear or plastic form, such as mechanical drawings, anatomical models, blueprints, etc.

**"Plastic" Works.** A work is not registrable in Class I merely because it is formed from one of the synthetic chemical derivatives

known as "plastics." The term "plastic work" refers to three-dimensional works giving the effect of that which is molded or sculptured.

**Ideas, Devices, etc.** It is not possible to secure copyright for ideas, plans, methods, systems, or devices as distinguished from the particular manner in which they are expressed or described in a work.

**Duration of Copyright.** Statutory copyright begins on the date the work was first published, or, if the work was registered for copyright in unpublished form, copyright begins on the date of registration. In either case, copyright lasts for 28 years, and may be renewed for a second 28-year term.

## Unpublished drawings and plastic works

**How to Register a Claim.** To obtain copyright registration, mail to the Register of Copyrights, Library of Congress, Washington, D.C. 20540, a photograph or other identifying reproduction of the work, an application on Form I, properly completed and signed, and a fee of \$6. Deposits are not returned, so do not send your only copy.

**Procedure to Follow if Work Is Later Published.** If the work is later reproduced in copies and published, it is necessary to make a second registration, following the procedure outlined below. To maintain copyright protection, all copies of the published edition must contain a copyright notice in the required form and position.

## Published drawings and plastic works

**What Is "Publication"?** Publication, generally, means the sale, placing on sale, or public distribution of copies. Unrestricted public exhibition of a drawing or plastic work may also constitute publication.

**How to Secure Copyright in a Published Drawing or Plastic Work:**

1. Produce copies with copyright notice.
2. Publish the work.
3. Register the copyright claim, following the instructions on page 1 of this form.

**The Copyright Notice.** In order to secure and maintain copyright protection in a published work, it is essential that all copies published in the United States contain the statutory copyright notice. The notice should ordinarily consist of the word "Copyright," the abbreviation "Copr.," or the symbol ©, accompanied by the name of the copyright owner. The year date of publication may be included in the notice, but normally it is not required.

**Alternative Form of Notice.** As an alternative, the notice for drawings or plastic works may consist of the symbol ©, accompanied by the initials, monogram, or mark of the copyright

owner, provided the owner's name appears on some accessible part of the copies.

**Universal Copyright Convention Notice.** Use of the symbol © with the name of the copyright owner and the year date of publication may result in securing copyright in countries which are parties to the Universal Copyright Convention, which protection might not be obtained by use of either of the alternative forms of notice. Example: © John Doe 1971.

**Optional Deposit.** For certain published works, it may be impracticable to deposit actual copies because of their size, weight, fragility, or monetary value. In such cases the Register of Copyrights may permit the deposit of photographs or other reproductions instead of the actual copies, under conditions specified in the Copyright Office Regulations. If the optional form of deposit is used, it will be necessary: (1) to fill out line 4 on pages 1 and 3, and (2) to deposit photographs or other identifying reproductions of the work. For more detailed information, write to the Copyright Office.

**NOTE:** If copies are published without the required notice, the right to secure copyright is lost and cannot be restored.

## FOR COPYRIGHT OFFICE USE ONLY

Application received JUL 12 1973	
One copy or reproduction received	
Two copies received JUL 1973	
Photographs or reproductions received	
Fee received 232121 23 JUL 1973	

AL 5500-



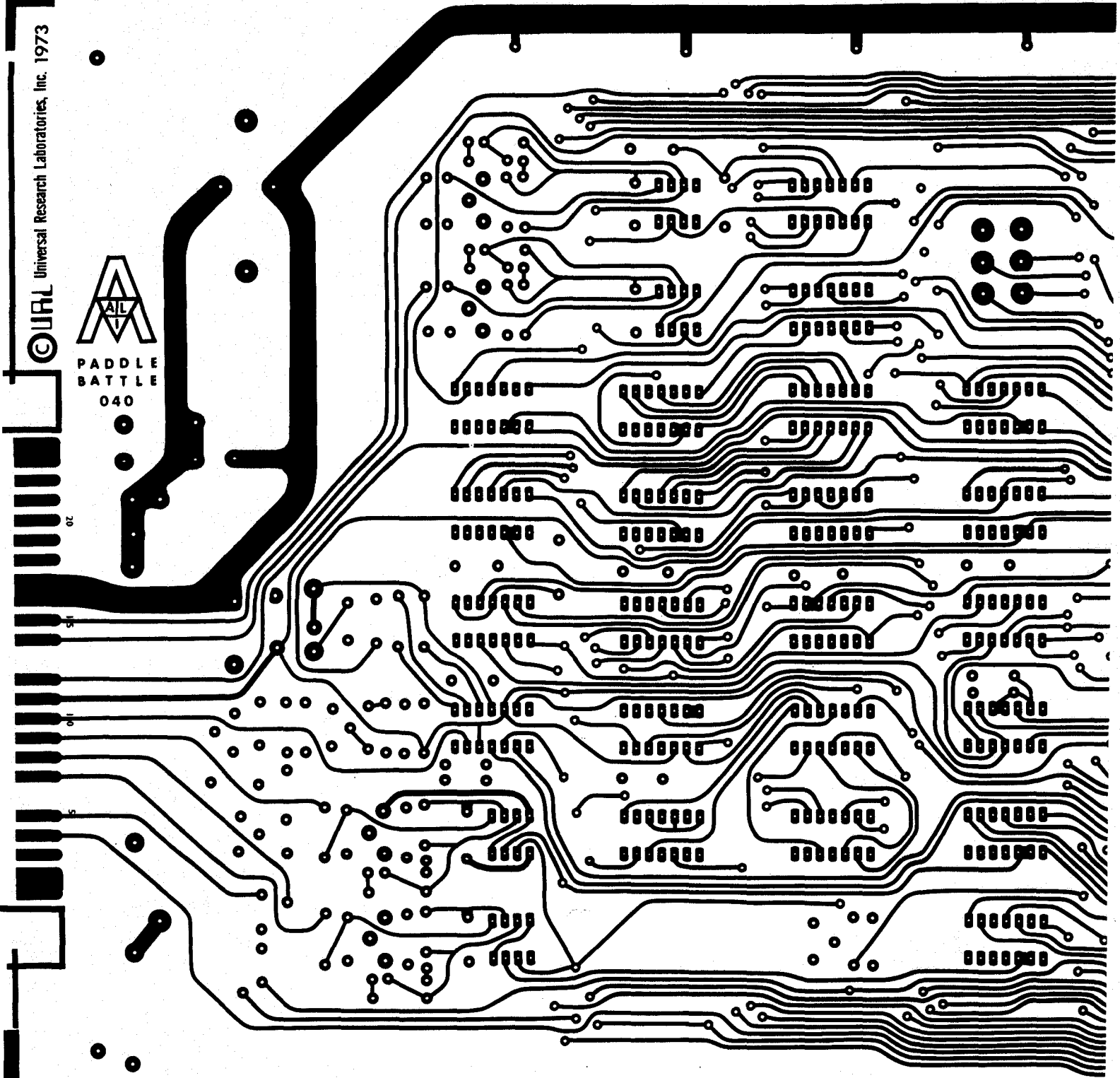
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